



Property Transfers

In its 2000 session, the Wyoming Legislature created new opportunities, procedures, and standards for voluntary remediation of contaminated sites. These provisions, enacted as Articles 16, 17, and 18 of the Wyoming Environmental Quality Act and implemented by the Wyoming Department of Environmental Quality (DEQ), will govern future environmental cleanups in Wyoming.

This Fact Sheet provides information on how the VRP can be used to facilitate transfers involving properties with confirmed or suspected environmental contamination.

1. How is the VRP related to property transfer?

It is increasingly common that buyers, sellers and lending institutions want information about the possibility for environmental contamination at properties during property transactions. Information may be desired on whether cleanup of confirmed environmental contamination has been completed, or to confirm or refute suspected environmental contamination. The VRP establishes a system that property owners, prospective purchasers, and lending institutions can use to work with DEQ to obtain this type of information and, if contamination is found, to cleanup properties and place them back into productive use.

Besides an efficient system for negotiating site-specific cleanup activities and carrying out cleanup, the VRP establishes a number of liability assurances for which property owners and others can qualify. Liability assurances are written documents, issued by DEQ, that establish the amount of investigation or remediation needed to address environmental contamination for a given piece of property (a "site") or a portion of a site. Liability assurances affect DEQ's ability to require additional cleanup at a site, and give site owners, operators, prospective purchasers, and land developers certainty about the extent of their responsibility for cleanup.

2. Do I have to go through the VRP before I buy or sell property?

No. DEQ does not require that you go through the VRP before you buy or sell property. However, if you want an assurance from DEQ about the extent of liability for environmental cleanup at your property (i.e., a liability assurance), these documents are available only through the VRP.

3. What should I do if I know there is environmental contamination at my property?

If you know that there is environmental contamination at a property, and you want to address this contamination before or as part of buying or selling the property, DEQ strongly advises that you

volunteer for the VRP so that you can work with the Department to negotiate site-specific cleanup activities and qualify for one of the liability assurances established by the VRP.

Instructions for applying for the VRP, and an application form, are available in Fact Sheet #3 *Application for the Voluntary Remediation Program*.

4. What should I do if I do not know whether there is environmental contamination at my property?

If you are unsure about environmental conditions at a property and need to gather more information to facilitate property transfer, you should investigate the property using good engineering, geologic, and hydrogeologic principles to confirm the presence or absence of contamination.

Often the first step in property investigation, particularly when environmental conditions are unknown, is a Phase I or preliminary Environmental Site Assessment. During a Phase I Environmental Site Assessment, information on potential contaminant sources is gathered through records review, conducting interviews, and physical inspections of the property in question.

If contamination is suspected as a result of the Phase I Environmental Site Assessment, a Phase II Environmental Site Assessment is generally recommended. A Phase II or confirmatory Environmental Site Assessment involves collecting and analyzing samples of environmental media at the property (such as soil, water or air) to confirm the presence or absence of environmental contamination.

Environmental consultants are usually hired to conduct Environmental Site Assessments. The American Society of Testing and Materials (ASTM) has developed standard protocols for Phase I and Phase II site assessments (see *Standard Guide for Environmental Site Assessments: Phase I Environmental Site Assessment Process* ASTM E 1527-00 and *Standard Guide for Environmental Site Assessments: Phase II Environmental Site Assessment Process* ASTM E 1903-97).

5. Do I have to be in the VRP before I can do an Environmental Site Assessment?

No. You do not have to be in the VRP to complete an Environmental Site Assessment or to undertake any other activity at property that you own. However, if you plan eventually to volunteer for the Program, either because you already know or suspect that contamination is present or because you want to qualify for one of the VRP liability assurances, DEQ strongly encourages you to volunteer as early in the cleanup process as possible (e.g., before completing a Phase I Environmental Site Assessment) so that you can work with the Department to negotiate a site-specific approach to cleanup. This “upfront” investment in coordination between Volunteers and DEQ will increase efficiency by ensuring that investigation activities will be adequate for DEQ to evaluate whether a liability assurance can be issued. If you begin site cleanup activities (including investigations) without involving DEQ, you run the risk that DEQ will require additional work (including additional sampling and analysis) before making a decision about remediation or about issuance of a liability assurance for your site.

In addition, note that many activities that are often part of site investigations (such as installation of monitoring wells and management of solid waste) require permits or other authorizations from DEQ or other state or local agencies. Regardless of whether your site is in the VRP, you are responsible for determining the programs that may apply to your activities and for obtaining permits or other necessary authorizations. You are strongly encouraged to contact the appropriate local, state and federal agencies, including DEQ, to determine if planned activities are regulated. For more information on this issue see Fact Sheet #8 *Site Characterization*.

6. Is completing a Phase I and/or a Phase II Environmental Site Assessment the same as site characterization under the VRP?

No, although the activities may overlap. Environmental Site Assessments verify the presence or absence of one or more contaminants on the property; site characterization determines the nature and distribution of contaminants.

The first steps in site characterization activities under the VRP typically include the activities that are generally carried out during an Environmental Site Assessment. Therefore, if you have already decided to eventually volunteer for the VRP, it is best to volunteer right away, so you can work with DEQ to integrate activities that would typically be associated with a Phase I and Phase II Environmental Site Assessment with any additional site characterization that may be necessary.

If you are completing a Phase I and Phase II Environmental Site Assessment before making a decision about whether to volunteer for the VRP, and your Phase II Environmental Site Assessment confirms that contamination is present, DEQ strongly recommends that you volunteer for the VRP right away so that you can work with the Department to negotiate cleanup activities for the site. Remember that even if your Environmental Site Assessment does not show contamination in the areas you evaluated, you must volunteer for VRP and work with DEQ to evaluate your site in order to qualify for one of the VRP's liability assurances.

For more information on VRP cleanups, see Fact Sheet #1 *The Voluntary Remediation Program*.

7. Once I have joined the VRP, how long will it take to obtain my liability assurance?

The amount of time needed to complete the VRP process will vary greatly depending on site specific circumstances. Larger, more complicated sites take longer to investigate and, if cleanup is needed, take longer to cleanup. In contrast, smaller sites, where an Environmental Site Assessment does not detect contamination, may be able to qualify for the VRP liability assurance in a matter of months. DEQ has established streamlined administrative procedures for sites where only simple cleanup is needed (e.g., sites where contamination is limited to soil and the remedy is soil removal). Using these procedures, the VRP process often can be completed in a few months.

Additional information can be found in Fact Sheet #4 *Administrative Processes*. Information on the streamlined process for sites where contamination is limited to soil can be found in the Fact Sheet #6 *Independent Cleanup*.

8. How can I get more information about the VRP?

To learn about VRP sites that may exist in your community, obtain copies of other VRP Fact Sheets/guidance documents, get answers to your questions, or volunteer for the program, contact DEQ at (307) 777-7752 or through the VRP website at: <http://deq.state.wy.us/volremedi/index.asp>.

The VRP website includes all of the Fact Sheets and other guidance documents for the VRP. This website is updated frequently and includes the latest information about DEQ's progress in developing guidance, policy, and other supporting documents for the VRP.

9. References

ASTM E 1527-00. *Standard Guide for Environmental Site Assessments: Phase I Environmental Site Assessment Process*. American Society for Testing and Materials. Can be purchased at: <http://www.astm.org/cgi-bin/SoftCart.exe/index.shtml?E+mystore>

ASTM E 1903-97. *Standard Guide for Environmental Site Assessments: Phase II Environmental Site Assessment Process*. American Society for Testing and Materials. Can be purchased at: <http://www.astm.org/cgi-bin/SoftCart.exe/index.shtml?E+mystore>